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No. 89/07

January 20, 1989

TO COUNTY ASSESSORS:

LEGISLATION ENACTED IN 1988

This letter is a compilation of the legislation that was enacted during the 1988 legislative session. The purpose of this letter is to briefly describe each piece of legislation. Certain bills, as noted, will be dealt with in more detail in separate letters. All bills are effective as of January 1, 1989 unless specifically stated otherwise.

ASSEMBLY BILLS

AB 2717, Chapter 1534 (Klehs)

This bill adds Article 9 to Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

It requires at least two competitive bids for appraisal work performed for the assessor by any individual who is not an employee of the State, any county, or any city. The contracts must be on a fixed fee basis or on the basis of an hourly rate with a maximum dollar amount.

The bill includes an intent statement that its provisions shall have no effect upon the constitutional, statutory, and regulatory mandates for determining "full cash value" or "fair market value" and that it shall remain the primary responsibility of the assessors to ensure that appraisals and enrolled values are neither overstated nor understated.

The provisions of this bill are applicable to contracts entered into on and after January 1, 1989.

AB 2841, Chapter 1199 (Harris)

This bill is a reworking of the Probate Law and makes only technical changes to various codes including Section 480 of the Revenue and Taxation Code.

It substitutes the term "personal administrator" for the terms "executor" and "administrator." It is operative on July 1, 1989.

AB 2878, Chapter 1271 (Elder)

In large part, this is the Board's cleanup bill for Proposition 60 on the November 1986 ballot. It will be dealt with in more detail in a future letter. It also includes implementing language for Proposition 90 on the November 1988 ballot.

AB 3016, Chapter 421 (Klehs)

Section 2780.5 is added to the Revenue and Taxation Code to define "replicated payment" for tax collection purposes.

This bill is an urgency statute that goes into effect on August 22, 1988.

AB 3020, Chapter 769 (Hannigan)

This legislation is the Board's cleanup bill for Section 63.1 which is the implementing section for Proposition 58 on the November 1986 ballot. It was double joined with Senate Bill 1736, Chapter 700 (Kopp). AB 3020 will be dealt with in more detail in a future letter.

AB 3165, Chapter 1231 (Klehs)

This bill amends Sections 20514 and 20543 of the Revenue and Taxation Code to increase, by 10 percent, the household income limits under the Senior Citizens Homeowners and Renters Property Tax Assistance Law.

As an urgency statute, this measure takes effect on September 23, 1988.

AB 3234, Chapter 1630 (Hill)

This bill adds Section 107.7 to the Revenue and Taxation Code setting forth the preferred method of valuing cable television possessory interests. We will be issuing a separate letter dealing with this bill in the future.

AB 3382, Chapter 1519 (Quakenbush)

Section 110 of the Revenue and Taxation Code is amended, by the addition of subdivisions (b) and (c), to specify that "full cash value" or "fair market value" shall be the purchase price paid in a transaction unless it is established by a preponderance of the evidence that the real property would not have transferred for that price in an open market transaction.

The amendment further specifies that the purchase price shall be rebuttably presumed to be the "full cash value" or fair market value" if the terms of the transaction were negotiated at arms length between the buyer and the seller with neither taking advantage of an urgent need on the part of the other.

Subdivision (b) also requires an allocation of the purchase price among parcels when a purchase involves more than one parcel. The allocation is to be based on the relative fair market value of each parcel. Subdivision (b) does not apply to possessory interests.

Subdivision (c) requires the change in ownership statement to include information as the Board shall prescribe relative to whether terms of the transaction were negotiated at arms length. This subdivision also requires the owner to disclose on the change in ownership statement the portion of the purchase price which is allocable to all elements of the transaction in the event the transaction includes property other than real property. Possessory interests are excluded from the requirement of subdivision (c). Failure on the part of the taxpayer to provide the prescribed information negates the rebuttable presumption that the purchase price equates to "full cash value."

AB 3842, Chapter 1591 (Farr)

AB 3842 amends Section 214 of the Revenue and Taxation Code as it relates to the use of property qualifying for the exemption. The section now provides that when determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to use of the property for either of the following "occasional" uses:

1. The owner conducts fundraising activities on the property and the proceeds from those activities are not unrelated business taxable income (as defined in Section 512 of the Internal Revenue Code of 1986) of the owner and are used to further the exempt activity of the owner.
2. The owner permits other exempt organizations to conduct fundraising activities on the property and the proceeds from those activities are not unrelated business taxable income (as defined in Section 512 of the Internal Revenue Code of 1986) of the organization, are not subject to the tax on such income (Section 511 of the Code), and are used to further the exempt activity of the organization.

"Occasional use" is defined as use of the property on an irregular or intermittent basis by the qualifying owner or any other qualifying organization which is incidental to the primary activities of the owner or the other organization.

"Fundraising activities" means both activities involving the direct solicitation of money or other property and the anticipated exchange of goods or services for money between the soliciting organization and the organization or person solicited.

The bill also precludes the application of these provisions in determining the eligibility for the exemption unless the owner of the property and any other organization using the property for fundraising activities have filed with the assessor: (a) duplicate copies of valid unrevoked letters or rulings from the Internal Revenue service stating that the owner and the other organization

qualify as exempt organizations under specified provisions of the Internal Revenue Code; and (b) duplicate copies of their most recently filed federal income tax returns.

Section 214 is also amended with the addition of subdivision (i). This subdivision provides that property used exclusively for housing and related facilities is qualified for the exemption if:

1. It is used for employees of religious, charitable, scientific, or hospital organizations meeting the requirements of subdivision (a) of Section 214, and
2. It is owned and operated by funds, foundations, or corporations meeting the requirements of subdivision (a), and
3. The residential use of the property is institutionally necessary for the operation of the organization.

The bill also provides a legislative finding and declaration that the provisions of the act are declaratory of existing law and that the amendments are a codification of State Board of Equalization practice and, therefore, no escape assessments shall be levied and no refunds shall be made as a result of the enactment of this act.

AB 4062, Chapter 571 (Baker)

This legislation amends Sections 98.6 and 98.9 of the Revenue and Taxation Code dealing with the allocation of property tax revenue within the county.

It also amends Section 231 to include a cross reference to Section 23701u of the Revenue and Taxation Code. Subdivision (u) was added to Section 23701 by Senate Bill 570 (Chapter 1442, Stats. 1987). The cross reference precludes certain nonprofit corporations from losing their exemption because they now qualify under a different subdivision of the Bank and Corporation Tax Law.

This measure is an urgency statute that is effective August 26, 1988.

AB 4086, Chapter 573 (Johnston)

Section 98.7 of the Revenue and Taxation Code is amended by this bill to change the allocation of the County Health Services Fund. These provisions are operative on July 1, 1989.

AB 4238, Chapter 141 (Bradley)

This measure amends Section 2823 of the Revenue and Taxation Code dealing with separate assessment of parcels. The section is amended to delete the limitation of separate valuations to four parcels in counties where the board of supervisors has adopted an ordinance permitting such.

The provisions of this bill are to apply to property valuations for the 1989-90 fiscal year and fiscal years thereafter.

AB 4436, Chapter 579 (N. Waters)

This bill repeals Section 51283.3 of the Government Code dealing with the California Land Conservation Act Contracts which authorize the owner of land subject to contract to petition the board of supervisors or city council for cancellation of the contract as to all or any part of the subject land.

ASSEMBLY CONSTITUTIONAL AMENDMENTS

ACA 1, Resolution Chapter 64 (Elder)

This amendment to the California Constitution was approved by the voters on November 8, 1988. ACA 1 added a third paragraph to subdivision (a) of Section 2 of Article XIII A. It provides that the Legislature may authorize each county board of supervisors, after consultation with local affected agencies, to adopt an ordinance making provisions of subdivision 2(a) also applicable to situations in which the replacement dwellings are located in that county and the original properties are located in another county. "Local affected agency" is defined as any city, special district, school district, or community college district which receives an annual property tax revenue allocation. The provisions of this newly added paragraph are applicable to replacement dwellings purchased or newly constructed on or after the date the county adopts the ordinance relating to the transfer of base year value provisions, but in no event prior to November 9, 1988.

Subdivision (i) of Section 2 was also amended to specify that unless otherwise provided, any amendment to Section 2 adopted after November 1, 1988 is effective for changes in ownership which occur and new construction which is completed on or after the amendment's effective date, rather than after the amendment's effective date.

ACA 56, Resolution Chapter 54 (O'Connell)

ACA 56, which was approved by the voters on November 8, 1988, amends Section 16 of Article XVI of the California Constitution. The amendment revises the method of dividing property tax revenue between taxing agencies and a redevelopment agency. It does so by excluding from the portion allocated to the redevelopment agency that portion attributable to a tax rate levied by a taxing agency for the payment of principal of, and interest on, bonded indebtedness for the acquisition or improvement of real property of the taxing agency which is approved by the taxing agency's voters on or after January 1, 1989.

SENATE BILLSSB 399, 821 (McCorquodale)

Section 742 of the Revenue and Taxation Code is amended to require the State Board of Equalization to provide an assessee who files a petition for reassessment with a notice of a hearing on that petition not less than ten working days before the hearing date.

SB 569, Chapter 560 (Garamendi)

This bill, in part, is a "housekeeping" measure sponsored by the the State Board of Equalization to make several technical, clarifying, and minor substantive changes to existing law. This bill will be the subject of a Letter to Assessors to be issued in the near future.

SB 726, Chapter 411 (Deddeh)

Coupled with Senate Constitutional Amendment 16, this bill deletes the residency requirements for qualifying for the disabled veterans' property tax exemption. Further, the bill provides that the amendments are declaratory of existing law.

SB 753, Chapter 77 (L. Greene)

The provisions added by this measure were included in Chapter 1228 of the statutes of 1987 (Assembly Bill 900 Polanco). However, the section added by Chapter 1228 was chaptered out of existence by Chapter 1469 of the Statutes of 1987. SB 753 adds subdivision (h) to Section 214 of the Revenue and Taxation Code to provide that property used exclusively for an emergency shelter, as defined, and related facilities for homeless persons and families would be eligible for the welfare exemption. The emergency or temporary shelters must be owned by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting the requirements of the welfare exemption.

This is an urgency statute effective on April 14, 1988; operative for the 1988-89 fiscal year and fiscal years thereafter.

SB 1736, Chapter 700 (Kopp)

This measure amends Section 63.1 of the Revenue and Taxation Code (parent-child transfers) to provide that change in ownership does not include any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

SB 1885, Chapter 1076 (Craven)

This legislation was sponsored by the State Board of Equalization as part of our cleanup package for 1988. It deals with the reappraisal required on the transfer of certain mobilehome park property and will be the subject of a detailed letter in the future.

SB 1910, Chapter 1507 (Campbell)

This bill adds Chapter 5 (Sections 194 through 195.1) to Part 1 of Division 1 of the Revenue and Taxation Code dealing with property tax deferral in conjunction with disaster relief. It permits owners of eligible property, as defined, to apply for the deferral, without penalty or interest, of the payment of the next installment of the regular secured roll property taxes and nondelinquent current fiscal year supplemental roll taxes. The eligible property must be located in a county which has been proclaimed by the Governor to be in a state of emergency, and the county must have adopted an appropriate ordinance for relief as authorized under existing law.

SB 2104, Chapter 1625 (Ellis)

Existing law excludes from change in ownership, and hence reassessment, any transfer made, on or after January 1, 1985, and prior to January 1, 1994, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, or other entity which is formed by the tenants for the purpose of purchasing the park.

Section 62.2, which is added to the Revenue and Taxation Code by this bill would make the above exclusion from change in ownership applicable to any transfer, on or after January 1, 1989, to a nonprofit corporation, stock cooperative corporation, or other entity which is not formed by the tenants for a temporary period of 270 days following the transfer if the transferee notifies the assessor, that the park will be transferred to a nonprofit corporation, stock cooperative corporation, or other entity formed by the tenants as specified. Individual tenants who are renting at least a majority of the park spaces prior to the transfer to the entity formed by the tenants must participate in the transaction through ownership of an aggregate of at least a majority of the voting stock or other ownership or membership interests in the acquiring entity.

Section 62.2 shall not apply if any fees charged the tenants in connection with either the first or second transfer exceed 15 percent of the total consideration paid for the mobilehome park in the first transfer plus any accrued interest and taxes. In order for the transfer to be excluded under this section, the assessor must be notified in writing that the transferee intends to qualify under this section at the time the transferee files the change in ownership statement. Failure to satisfy the conditions of the section shall cause the assessor to reappraise the park and levy escape and/or supplemental assessments, as appropriate.

SB 2173, Chapter 439 (Dills)

For delinquent property taxes being paid on an existing installment plan, this measure permits a one-year deferral of payment of those taxes if the county in which the property is located was declared by the Governor to be in a state of

disaster as a result of the fires which occurred in 1987, and the assessee of the property sustained substantial business losses, as defined, as a result of those fires, and the assessee files an application for deferral with the tax collector on or before September 1, 1988.

This is an urgency statute effective August 22, 1988.

SB 2293, Chapter 830 (Garamendi)

This bill makes various changes to property tax allocation and collection provisions.

SB 2295, Chapter 1480 (Garamendi)

This bill adds Article 1.9 (commencing with Section 1642) to Chapter 1 of Part 3 of Division 1 of the Revenue and Taxation Code. The new article is titled "Hearings Before Assessment Hearing Officers for Unitary Property Located in More Than One County." It provides that an assessee of mining or mineral property located in more than one county and alleged to be unitary property, as defined, may request a hearing before a panel comprised of one hearing officer from each county in which the unitary property is located by filing, in each county concerned, a multicounty application for reduction of assessment.

The bill also sets forth procedures for the panel, the assessor, the assessee, and the county board of equalization or assessment appeals board to follow.

This measure is applicable to property taxes levied for the 1989-90 fiscal year and fiscal years thereafter.

SB 2407, Chapter 1606 (Alquist)

Section 214.05 is added to the Revenue and Taxation Code by this bill. Its provisions would deny the welfare exemption on a proportionate basis when an otherwise qualifying exempt organization receives unrelated business taxable income as specified. SB 2407 will be dealt with in more detail in a future letter.

These provisions are applicable to property taxes levied for the 1989-90 fiscal year and fiscal years thereafter.

SB 2584, Chapter 1559 (Ellis)

Section 226 is added to the Revenue and Taxation Code by this measure to classify as personal property and exempt computer equipment of the San Diego Supercomputer Center located on the campus of the University of California, San Diego. "Computer equipment" is defined to include, without being limited to, any supercomputer and all peripheral computer and other equipment related to the system of which the supercomputer is the principal component and all other equipment that becomes a part of that supercomputer system.



SB 2584 is an urgency statute effective September 30, 1988. Its provisions are applicable to property taxes levied for the 1988-89 fiscal year and fiscal years thereafter.

SB 2601, Chapter 1372 (Garamendi)

This bill amends Section 5149 of the Revenue and Taxation Code to specify that, in any action for a refund of state-assessed property taxes, the superior court shall not be limited to the review of the administrative record. Rather, the court shall hear all evidence relating to the valuation of property admissible under the rules of evidence. The court, under this measure must base its decision upon the preponderance of the evidence before it.

SB 2709, Chapter 1296 (Alquist)

Section 236 is added to the Revenue and Taxation Code by this bill to exempt property leased for a term of 35 years or more or any transfer of property leased with a remaining term of 35 years or more where:

a) The lessor is not otherwise qualified for a tax exemption pursuant to Section 214 and which is used as low income rental housing; and,

b) The property is leased and operated by:

1) religious, hospital, scientific, charitable funds, foundations or corporations;

2) public agencies, or public housing authorities, or;

3) limited partnerships in which the managing general partner has received a determination that it is a charitable organization under Section 501(c)(3) of the Internal Revenue Code and is operating the property in accordance with its exempt purpose.

This bill is operative for the 1989-90 fiscal year and fiscal years thereafter.

SENATE CONSTITUTIONAL AMENDMENTS

SCA 16, Resolution Chapter 68 (Deddeh)

This amendment to subdivisions (o), (p), and (q) of Section 3 of Article XIII (veterans' exemption) deleted certain conditions relating to the place of the claimant's or the armed forces member's residence in this state either on November 3, 1964, or at the time of his or her entry into the armed forces.

The amendment was approved by the voters in the November 8, 1988 general election.

SCA 35, Resolution Chapter 1 (Keene)

This constitutional amendment requires that the office of county assessor be an elective office in both chartered and general law counties. This amendment was Proposition 66 on the June 7, 1988 ballot and it was approved by the voters.

SCA 37, Resolution Chapter 102 (Lockyer)

This proposed amendment to the constitution will be on the ballot on June 5, 1990. If approved by the voters, it would amend subdivision (c) of Section 2 of Article XIII A to permit the Legislature to exclude from the term "newly constructed" the construction, installation, or modification of any portion or structural component of a single family or multiple family dwelling which is eligible for the homeowners' exemption if the construction, installation or modification is for the purpose of making the dwelling more accessible to severely disabled persons. To be excluded, the construction, installation, or modification must occur on or after the effective date of the amendment.

The amendment also would allow the Legislature to extend the reappraisal provisions applicable to persons over 55 years who transfer base year values, to severely disabled homeowners with respect to replacement dwellings purchased or newly constructed on or after the measure's effective date.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:wpc  
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